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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,664	02/25/2004	Dale A. Christensen	V-04-4	2977
31083	7590	04/22/2005	EXAMINER	
THOMTE, MAZOUR & NIEBERGALL, L.L.C. 2120 S. 72ND STREET, SUITE 1111 OMAHA, NE 68124			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/786,664

Applicant(s)

CHRISTENSEN ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed February 3, 2005 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a plurality of spaced-apart drive units" in lines 2-3. The claim further defines "at least one of said drive units including a generally transversely extending base beam having first and second ends" in lines 4-5. If there is only one drive unit that includes a generally transversely extending base beam having first and second ends, there is no longer a plurality of drive units. The claim is contradictory.

According to the specification, page 2, lines 7-24 and page 4, lines 5-11, the first in-line drive assembly and the second in-line drive assembly appear to be sub-assemblies of the spaced-apart drive units. Therefore, the recitation of the "first in-line drive assembly" and the "second in-line drive assembly" recited in claim 1, lines 6 and 8, respectively, appear to be double inclusions of the drive units recited in line 3.

***Claim Rejections - 35 USC § 102***

4. Claims 1, 2, 4, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Chapman (6,131,833).

Chapman discloses a self propelled irrigation system including a pipeline 14 supported upon a plurality of spaced-apart drive units 22. The drive units 22 include a generally transversely extending base beam 24. Chapman further discloses a first and second in-line drive assemblies including: an elongated support member 60; a first driven wheel 48; a second driven wheel 48.

***Response to Arguments***

5. Applicant's arguments filed February 3, 2005 have been fully considered but they are not persuasive.

Applicant argues that claims 1-5 are not indefinite because the "self-propelled irrigation system may include a plurality of spaced-apart drive units, but not all of the spaced-apart drive units may have the invention utilized thereon." Applicant's argument is not found convincing for the following reason. Applicant claims that the irrigation system has a plurality of "spaced-apart drive units." Then applicant defines at least one of the "drive units" to include "a generally transversely extending base beam having first and second ends." The "drive unit" is defined to have "a generally transversely extending base beam having first and second ends," i.e., if a structure did not have "a generally transversely extending base beam having first and second ends," then the

structure cannot qualify as a "drive unit." For example, if an irrigation system has five support elements and only one of them has "a generally transversely extending base beam having first and second ends," the irrigation system only has one drive unit. The other four support elements cannot qualify as a drive unit. Therefore, the irrigation system cannot have a plurality of drive units. Otherwise, the recitation of "a plurality of spaced-apart drive units" would be indefinite because the metes and bounds of "a plurality of spaced-apart drive units" cannot be determined in the context of claim 1. What would qualify as a "drive unit" that does not have "a generally transversely extending base beam having first and second ends...?"

Applicant argues that Chapman does not have first and second drive assemblies, because in the instant invention, a pair of drive motors are mounted on opposite ends of the beam. Applicant's argument is not commensurate in scope with the claimed invention.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK